

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

FOOD MANAGEMENT GROUP, LLC,
KMA I, Inc.,
KMA II, Inc.,
KMA III, Inc.,
BRONX DONUT BAKERY, INC.,

Debtors.

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JANICE GRUBIN, in her capacity as Chapter 11
Trustee for Debtor FOOD MANAGEMENT
GROUP, LLC, KMA I, Inc., KMA II, Inc., and
BRONX DONUT BAKERY, INC.,

Plaintiff,

-against-

ROBERT L. RATTET;
JONATHAN S. PASTERNAK; RATTET
PASTERNAK & GORDON OLIVER, LLP,

Defendants.

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Chapter 11

Case No. 04-22880-ash

Case No. 04-22890-ash

Case No. 04-22891-ash

Case No. 04-22892-ash

Case No. 04-20312-ash

(Jointly Administered)

Adv. Pro. No. 07-8221-mg

NOTICE OF DESIGNATION OF ISSUES AND RECORD ON APPEAL

MATRIX REALTY GROUP, INC., the proposed intervenor herein, ("Matrix"), by and through its counsel, The Law Offices of Avrum J. Rosen, PLLC, as and for its Statement of Issues on Appeal respectfully asserts as follows:

1. Did the Court err in denying Matrix's motion *sua sponte* without a hearing, or even without the other parties being heard on the matter.
2. Did the Court err in referring the issues raised in the Motion to Intervene back to the Hon. Adlai S. Hardin for determination when the issues raised by Matrix were before the Court in the present Adversary Proceeding and were necessary to the

determination of this case.

3. Did the Court err in not addressing Matrix's claims that it had causes of action against the parties to this action that were distinct from the issues before Judge Hardin in the other adversary proceeding.
4. Did the Court err in determining would delay or prejudice the rights of the other parties to the litigation wherein an Amended Answer to the Amended Complaint had been filed less than twenty-five (25) days prior to the filing of the Motion to Intervene and was made within the time frames set forth in the Court's Scheduling Order for motions to amend the pleadings, there was briefing to determine if the matter was "core" which had not been completed and a motion to withdraw the reference had been made by the Defendants.
5. Did the Court err in determining that granting the motion would not have been in the interests of the orderly administration of justice.

DESIGNATION OF THE CONTENTS OF THE RECORD ON APPEAL

Matrix designates the following items as and for the Record on Appeal;

1. Written Opinion entered on January 23, 2008 Granting in Part and Denying in Part Defendants' Motion to Dismiss. [Dkt. #60].
2. Amended Complaint. [Dkt #63].
3. Answer to Amended Complaint. [Dkt. #66].
4. Motion to Withdraw the Reference. [Dkt. #67].
5. Memorandum of Law in Support of Motion that the Adversary Proceeding is Core. [72].
6. Memorandum of Law in Opposition to Motion that the Adversary Proceeding is not "Core".

7. Amended Case Management and Scheduling Order. [Dkt. # 78].
8. Motion to Intervene and all Exhibits. [Dkt. # 79].
9. Affidavit of Service of Motion to Intervene. [Dkt. # 81].
10. Letter Objecting to *ex parte request for stay of al proceedings*. [Dkt. #89] (Letter requesting Stay appears not to have been docketed by Defendants).
11. Letter responding to request of Matrix. [Dkt. #90].
12. Order signed on April 7, 2008 Denying Motion for Intervention. [Dkt. #91].
13. Decision in Ad. Pro. Case No. 05-8636A, dated July 25, 2007. [Dkt. 95].

Dated: Huntington, New York
April 25, 2008

The Law Offices of Avrum J. Rosen, PLLC
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